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23 February 1978

MEMORANDUM FOR: Deputy Director of Personnel

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FROM : [REDACTED]
Chief, Review Staff, OP

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SUBJECT : [REDACTED] Grievance

REFERENCE : IG draft response to subject grievance
dtd 21 Feb 78

Ben:

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[REDACTED] and I have reviewed the draft response to
Mr. [REDACTED] and have the following comments.

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1. Para 2 - Reference to content of [REDACTED] is misleading. The DCI does not allocate supergrade ceiling to Directorates based on recommendations of the "Agency Supergrade Board", albeit this action is provided for in the regulations. Allocation at the present and for the recent past has been on a percentage relationship to the number of evaluated supergrade positions established on the staffing complement. We do not advise these internal arrangements be described to Mr. [REDACTED].

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2. Para 2 - The statement covering competitive evaluation is not entirely factual in terms of competitive ranking in three stages. There may be Office and then Directorate or Career Service ranking, but we know of no Agency-wide ranking that has taken place.

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3. Para 4 - We recommend changing "routinely" to "normally" in the phrase "factors normally considered in promotion". [REDACTED], while supposedly not applicable to supergrades, does provide the general promotion policies and specifically notes in para a(7) the possibility of waiver of time in grade guidelines, hence the practice in this case would be more of a normal procedure than routine. A fine point, admittedly, but we believe the shade of difference is pertinent.

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4. Para 5 and 6 - Both paragraphs make reference to Congress's involvement with our personnel ceiling. Technically this could be correct in view of the budget/appropriations committee action, but we usually refer to OMB as controlling our ceiling.

5. Para 5 - We have assumed in editing this paragraph that the ceiling reference is to supergrade ceiling. Recommend the second sentence read: "In point of fact, supergrade ceiling is approved by the Office of Management and Budget, whereas positions are established by the Agency's Office of Personnel." We would also recommend the use of "reduced" rather than lowered which implies reduction in grade.

It should be noted that supergrade ceiling has not been reduced within the time frame of [REDACTED] concern.

6. Para 6 - A reduction in ceiling, supergrade or overall, would not cause PRAs; only downgrading of the positions or reassignment of incumbent to lower graded position would have that effect.

7. There may be confusion in the minds of some employees on the subject of supergrade ceiling. OMB has approved [REDACTED] supergrade allocations for CIA. This means that there may be [REDACTED] employees holding supergrade rank. For a number of years the number of supergrade positions matched the approved allocation, but four or five years ago, approval was given to establishing all positions on the Staffing Complement, evaluated by PMCD at supergrade level. As a result there are more supergrade positions on the books than there are approved allocations for employees to hold the SG rank.

8. We would also recommend the IG reconsider the detail in this response, though that may be the function of a reply to a grievance. The entire subject of supergrade positions, supergrade allocation and promotions is rather arcane for a memorandum of this type.

9. Further recommendation, unless it has been included in earlier correspondence with Mr. [REDACTED] would be to include reference to the OGC Opinion 76-6048, which addresses the matter of retroactive promotion of employees occupying positions graded higher than that held by the individual. This was written as an Agency position on the Comp Gen Decision which required retroactive promotions, under certain conditions, for employees in the competitive service. It addresses the Director's authority and the Agency's exemption from the rules and regulations of the Civil Service in these matters.

10. Attached is a copy of our precis of the OGC opinion.

[REDACTED]

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